

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

JAMES EDWARD MURPHY

PETITIONER

VERSUS

CIVIL ACTION NO.: 3:04CV17

LAWRENCE GREER AND JIM HOOD

RESPONDENTS

CERTIFICATE OF APPEALABILITY DENIED

A notice of appeal having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court pursuant to 28 U.S.C. § 2254 or the detention arises out of a judgment and conviction in federal court which is being challenged pursuant to 28 U.S.C. § 2255, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253 and Rule 22(b) of the Federal Rules of Appellate Procedure, hereby finds that:

1. A certificate of appealability should not issue. The petitioner has failed to make a substantial showing of the denial of a constitutional right.
2. Petitioner's motion [37] to proceed *in forma pauperis* on appeal is GRANTED. However, petitioner's request for a copy of the court record in this case at government expense is DENIED because petitioner has failed to specifically show why a copy of the court file would be necessary for proper disposition of his appeal. Norton v. E. U. Dimazana, M.D., 122 F.3d 286, 293 (5th Cir. 1997).

SO ORDERED, this the 1st day of August, 2006.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE